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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/511,521

08/01/2005

Thomas J. Hormann

LZ-91PCT

4429

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03/06/2008

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EXAMINER

KELLY, CATHERINE A

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

03/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/511,521	Applicant(s) HORMANN ET AL.	
	Examiner CATHERINE A. KELLY	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/15/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 20,22,26,32, and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

claim 22 -- A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 22 recites the broad recitation less than 30 degrees, and the claim also recites approximately 20 degrees which is the narrower statement of the range/limitation.

Also, note that "preferably" is indefinite – is the phrase afterwards required or not? See MPEP § 2173.05(d).

claim 20 -- "for example" -- is the phrase afterwards required or not? See MPEP § 2173.05(d).

claim 20, 26, 32 -- "more-or-less" -- what exactly is encompassed by this term?

claim 34, 20, "thrust element, especially by the guide element" is unclear. Must the guide element do the pressing or not?

Note that the above are non-limiting examples only. All claims should be reviewed and corrected for indefiniteness.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20 and 24-33 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent 3188698. Regarding claim 20, the '698 reference figure 1 shows the locking element in reference numeral 34 connected to lever 25 via shaft portion 28, a guide element made of roller 12 and shaft 21, pretensioning device 41, locking device made of lever 25 and locking element 34, tensioning member 18, and guide rail 13. Figure 2 shows contact surface 39. The drive device is taught in column 2 lines 26-29 and 33-35. Shaft 21 of the guide member acts as the thrust member rotating locking element 34 into locking position.

Regarding claim 24, the support member of the locking device is shown in the '698 reference in figure 1 as reference numeral 26.

Regarding claim 25, the above mentioned support member 26 is pivotable with shaft 21 as support member 26 is attached to pivoting shaft 21.

Regarding claim 26, as stated in the above rejection of claim 20, the guide member has shaft 21 as seen in figure 1 of the '698 reference. Figure 1 also shows shaft 21 passing through lever 25, support 26, and pretension or torsion spring 41.

Regarding claim 27, figure 1 of the '698 reference also shows a bracket element made of arms 22 and 23 and plate 19 attaching shaft 21 with attached locking device to door panel 11.

Regarding claim 28, bracket elements 19, 22, and 23 form a U shape as can be seen in figure 2 of the '698 reference.

Regarding claim 29, the location of the locking device in the area of the edge of the door is taught in the '698 reference in column 2 lines 41-41.

Regarding claim 30, as stated in the above rejection of claim 20, the guide member has roller 12 as seen in figure 1 of the '698 reference.

Regarding claim 31, the C or J shape of guide rail 13 accepting roller 12 can be seen in figure 2 of the '698 reference.

Regarding claim 32, figure 2 of the '698 reference shows the contact surface 39 parallel to door panel 11.

Regarding claim 33, the plurality of panels is taught by the '698 reference in column 2 lines 16-18.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 21-23 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 3188698 in view of US patent 4385471. The '698 reference shows the placement of the locking element 34 in locking position with one surface resting against contact surface of claims 22 and 34. However, the '698 reference does not show the position of another surface resting against the guide element of claims 21, 22, and 34. This placement is shown in the '471 reference in figure 4 where reference numeral 26 is the locking element, 20 the shaft of the guide element, and 15 the guide rail. It would have been obvious to one of ordinary skill in the art at the time of invention. One of ordinary skill would be motivated to combine because the position against the guide element and the guide rail provides additional support of the locking device and thus added safety benefits which is the problem being solved by the invention.

Regarding claim 23, the placement of the torsion spring is shown in figure 1 of the '698 reference with the end 43 of torsion spring 41 connected indirectly to door panel 11 via bracket elements 22 and 19. However, the '698 reference does not show the other end 42 connected to lever 25 but to shaft 21. This is equivalent to the placement of claim 23 as the shaft 21 is connected to lever 25. It would have been obvious to one of ordinary skill in the art at the time of invention. One of ordinary skill in the art would be motivated to use one placement or the other as a design choice based on factors such as manufacturing cost, durability, etc....

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CATHERINE A. KELLY whose telephone number is (571)270-3660. The examiner can normally be reached on Monday through Friday 8am - 4:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3634

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. A. K./
Examiner, Art Unit 3634

/Katherine W Mitchell/
Supervisory Patent Examiner, Art
Unit 3634

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